

SITE DEVELOPMENT PERMIT

FILE NO.	H20-029
LOCATION OF PROPERTY	650 Quinn Avenue
ZONING DISTRICT	LI Light Industrial
GENERAL PLAN DESIGNATION	Light Industrial
PROPOSED USE	Site Development Permit to allow installation of a ten-foot high perimeter electric security metal fence, to the interior of the existing perimeter fence on an approximately 2.0-gross acre site
ENVIRONMENTAL STATUS	Exempt per CEQA Guidelines Section 15303(e) for Accessory Structures
APPLICANT ADDRESS	Carol Bausinger 550 Assembly Street, 5th Floor Columbia, SC 29201
OWNER ADDRESS	Robert and Sharon Bothman 20385 Iron Springs Road Los Gatos, CA 95033

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Project Description.** Site Development Permit to allow installation of a ten-foot high perimeter electric security metal fence, to the interior of the existing perimeter fence on an approximately 2.0-gross acre site.
2. **Site Description and Surrounding Uses.** The subject site is located on the southerly side of Quinn Avenue, approximately 1,000 feet east of Senter Road, located at 650 Quinn Avenue. The site is surrounded by a moving and storage facility to the north, warehouse retail and an auto insurance service to the south, an auto repair shop and warehouse to the east, and a beverage distribution facility to the west.
3. **General Plan Conformance.** The subject site is designated Light Industrial on the Land Use/Transportation Diagram designation of the Envision San José 2040 General Plan. This designation is intended for a wide variety of industrial uses.

The site has an existing industrial and office building, consistent with the General Plan land use designation. The proposed fence is incidental to the existing industrial use of the site and consistent with the uses intended for this designation.

4. **Zoning Conformance.** The subject site is located in the LI Light Industrial Zoning District. Section 20.100.610 of the City of San José Municipal Code states that a Site Development Permit is required prior to the issuance of any building permit for erection, construction, enlargement, placement or installation of a building or structure on any site. The proposed 10-foot electric fence is defined as a structure. Therefore, the issuance of a Site Development Permit is required prior to the issuance of any building permit.

The following development standards are applicable to the project:

- a. **Use:** The existing operations on the site includes warehouse and research and development office uses, in conformance with the zoning district. The project does not change the existing uses and only includes the installation of 10-foot high electric fence inside the existing perimeter fence. The existing perimeter fence includes a combination of a solid concrete CMU wall and chain-link fence and gates with sight-obscuring slats that are approximately seven feet in height.
- b. **Setbacks and Height.** The proposed fence conforms with the development standards for a site in the Light Industrial Zoning District as summarized in Table 1 below:

Regulation	Requirement	Proposed Fence (approximate location in feet)
Front Setback	15 feet minimum	125 feet
Side Setback	0 from property line	6 inches minimum
Rear Setback	0 from property line	6 inches minimum
Maximum Height	50 feet	10 feet

Table 1: Development Standards

5. **Design Guidelines Consistency:** The electric fence consists of structural poles four inches in diameter, non-structural poles one inch in diameter, and horizontal wires spaced at about 6 to 8-inch intervals on the top portion. Only the top two-foot portion of the fence will be visible as this 10-foot high fence is located within and behind the existing 7 to 8-foot tall perimeter fence would be set back approximately 125 from front property line along Quinn Avenue. It conforms with the Industrial Design Guidelines in that it is open in appearance as described, the style of the fence is not among the inappropriate fence list under the Design Guidelines and minimally visible from street view at Quinn Avenue with sufficient front setback.
6. **Environmental Review.** Class 3 of Section 15303(e) (New Construction or Conversion of Small Structures), consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Examples of this exemption include, but are not limited to: (e) accessory structures including garages, carports, patios, etc. Under this provision the project is found by the Director of Planning to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

Analysis: The project only involves the installation of a 10-foot tall electric security fence 6 to 12 inches to the interior of an existing perimeter fence. No other physical improvements to the site and no physical changes to the existing buildings are proposed. Therefore, the project is considered exempt in accordance with CEQA Guidelines Section 15303(e) for small accessory structures.

7. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and Area Development Policies; and

Analysis: As described under the General Plan Conformance section above, the project is consistent with the Light Industrial General Plan land use designation. The proposed electric fence is an incidental use and consistent with the uses allowed under the General Plan land use designation. There are no applicable specific plans and area development policies for the subject site.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: As discussed in the Zoning Ordinance Conformance section above, the proposed electric fence meets the height requirement and could be exempt from the 10-foot maximum front setback requirement in the LI Light Industrial Zoning District.

- c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project is consistent with City Council Policy 6-30 Public Outreach Policy for Land Use and Development Proposals. On-site signs describing the project were posted on the project site. A notice of the hearing was sent to surrounding neighbors and property owners within a 500 feet radius of the subject site.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The project involves the installation of a 10-foot high, 12-volt DC battery operated (low voltage) security fence, 6 to 12 inches from the property lines of the project site and will be installed to the interior of an existing perimeter fence. The existing fence consists of a combination of a CMU wall and chain-link fence and gates with sight-obscuring vertical plats along the front, sides, and rear boundaries of the site. The installation of the proposed electric metal fence is to provide additional security, protect property, and improve safety without negatively impacting aesthetics of the project location and the surrounding area. Precautionary warning signs would be added along the perimeter of the electric fence. The electric metal fence would, therefore, be compatible to the existing chain-link on-site and would be mutually compatible and aesthetically harmonious.

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The electric fence would be located to the interior of an existing 7-8-foot high fence. Only the top portion of the electric fence would be visible from the adjacent properties. The fence would not be adjacent to a residential use. The proposed project does not alter the existing building appearance. The proposed electric metal fence would be compatible to the use of chain-link and metal fences with vertical or horizontal slats in the neighborhood and therefore, would be compatible with and aesthetically harmonious with the character of the neighborhood.

- f. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The proposed 10-foot high electric fence would be installed to the interior of the existing fence, leaving only the top two-feet portion of the electric fence visible. The new fence will not result in the removal of any trees or parking spaces. There are existing mature trees along the perimeter which will continue to screen the site. No other physical improvements are proposed at the subject site and the project will continue to maintain the appearance of the neighborhood.

- g. Traffic access, pedestrian access and parking are adequate.

Analysis: The project would not result in changes to the existing vehicular access, pedestrian access, or circulation. There are no proposed modifications to the uses or parking spaces at the subject site which will continue to be accessed from Quinn Avenue, and sufficient parking and traffic capacity are available for the existing uses on-site. The project will not change the existing pattern of pedestrian and vehicular access to the site. Knox boxes with call-key cards will be installed on the existing gates for emergency fire and police access.

- h. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: As discussed above, the project involves the installation of a 10-foot tall electric security fence 6 to 12 inches to the interior of an existing perimeter fence. No other physical improvements to the site and no physical changes to the existing buildings are proposed. There is no noise or vibration associated with the electric fence installation. Warning signs will be placed at the entrance and at 30-foot interval on each side of the perimeter fence. Hence, the project would not result in an unacceptable negative affect on adjacent properties. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), which allows for the construction and location of limited numbers of new, small facilities or structures, this project is found to be categorically exempt from the environmental review requirements.

In accordance with the findings set forth above, a **Site Development Permit** for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all

subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically four (4) years from and after the date of issuance hereof by the Director, if within such time period, a Building Permit (for foundation or vertical construction) has not been obtained or, if no Building Permit is required, the use has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Site Development Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
5. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by permittee shall constitute acknowledgement of receipt of notice by permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system

imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

6. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans entitled, "MASTEC at 650 Quinn Avenue, San Jose, CA 95112 " dated received October 8, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
7. **Use Authorization.** This Permit allows the installation of a 10-foot high electric security fence inside an existing perimeter fence on an approximately 2.0-gross acre site. No trees or parking stalls are proposed for removal.
8. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
10. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
11. **Tree Removal.** No tree larger than 38 inches in circumference, measured at a height of 4.5 feet above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
12. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
13. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions.
14. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
15. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
16. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
17. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.

18. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- Construction Plans.* This permit file number, **H20-029** shall be printed on all construction plans submitted to the Building Division.
 - Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
19. **Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Fire Department:
- Electric Fence.* Provide warning signs around the perimeter of the electric fencing, a lock box at the existing gate that can facilitate site access by the Fire Department and/or Police, and a means of shutting off the power to the electric-security fence.
 - Lock Boxes.* The project development shall provide lock boxes to the satisfaction of the Chief Building Official and Fire Chief. Refer to the following documents.
<https://www.sanjoseca.gov/Home/ShowDocument?id=9303>
<https://www.sanjoseca.gov/Home/ShowDocument?id=9301>
20. **Revocation, Suspension, Modification.** This Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
- A violation of any conditions of the Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - The use as presently conducted creates a nuisance.

APPROVED and issued on this **18th** day of November, 2020

Rosalyn Hughey, Director
Planning, Building, and Code Enforcement

Deputy